

FREEDOM COURT REPORTING

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

PATTY BEALL, MATTHEW) 2:08-cv-422 TJW
MAXWELL, TALINA MCELHANY and)
KELLY HAMPTON, individually)
and on behalf of all other)
similarly situated,)
Plaintiffs)

v.)

TYLER TECHNOLOGIES, INC.,)
and EDP ENTERPRISES, INC.)
Defendants)

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13 DEPOSITION OF AMY R. DUNN, taken before Colleen
14 A. DiPierro, RMR, CRR, pursuant to notice dated July
15 13, 2010, at Executive Office Centers, 477 Congress
16 Street, Portland, Maine, on August 19, 2010, commencing
17 at 8:51 A.M.

APPEARANCES:

PAULO B. McKEEBY, ESQ.
CHANDRA L. HOLMES RAY, ESQ.

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1 A. I go on-site to clients and I go to the office when I'm
2 not on-site.

3 Q. Have you -- who is your supervisor at Harris Computers?

4 A. Jennifer Cyrus, C-Y-R-U-S.

5 Q. What is her title?

6 A. I honestly couldn't tell you. I just know she manages
7 the office. I don't know her official title.

8 Q. Am I correct that your title at Tyler Technologies was
9 implementation consultant?

10 A. Yes.

11 Q. Is your understanding of your -- well, let me lay the
12 predicate first.

13 Have you started performing the job of
14 application consultant at Harris Computers?

15 A. I'm in training.

16 Q. What has that training consisted of generally?

17 A. Learning the software and shadowing another application
18 consultant to learn the software.

19 Q. Is it your understanding based on that training that
20 you have received that the job of application
21 consultant at Harris Computer is similar to the
22 implementation consultant position that you performed
23 at Tyler?

24 A. I believe it will be similar. However, I'll have more
25 responsibility in setting up the appointments and

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1 handling my own schedule.

2 Q. And what responsibilities specifically in terms of
3 setting up your appointments do you expect to have at
4 Harris Computers that you didn't have at Tyler
5 Technologies?

6 A. Once the contract is signed, I believe I'd be notified
7 and then I would schedule the client to make sure they
8 get it in a timely manner and make sure it fits into my
9 schedule as well.

10 Q. And how did it work at Tyler Technologies with respect
11 to scheduling?

12 A. Project managers did that. I was told where I would be
13 and when I would be there.

14 Q. So your understanding of your job at Harris Computers
15 is that you would work directly with the client to
16 schedule the appointment within whatever the
17 contractual time designations are?

18 A. Yes.

19 Q. And is that -- you mentioned setting up an appointment
20 and handling your schedule. Are those distinct
21 concepts in your mind?

22 A. No, I was just trying to elaborate.

23 Q. Okay. But you would agree with me that there would be
24 some obviously limits in terms of your ability to set
25 up your schedule and your appointments in the sense of

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1 you would be governed by whatever the contractual
2 arrangement between Harris Computers and its client
3 would be?

4 MS. HOLMES RAY: Objection, form of the
5 question. You can answer.

6 A. Can you repeat it now.

7 BY MR. McKEEBY:

8 Q. Probably not, but I'll try to ask in maybe a more
9 discernible fashion.

10 Would you agree with me that even though you
11 may have some autonomy to set up your schedule at
12 Harris Computers, that there would be some structure
13 dictated by the terms of the contract and any deadlines
14 that are set forth in the contract between Harris
15 Computers and its customer?

16 MS. HOLMES RAY: Same objection. You can
17 answer.

18 BY MR. McKEEBY:

19 A. Yes.

20 Q. Based on what you've learned about your job at Harris
21 Computers, are there any other differences in terms of
22 the responsibilities between what you expect at your
23 current position compared to your position of
24 implementation consultant at Tyler Technologies?

25 A. The only difference that I've been told is that I will

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1 of the website?

2 A. It is J-O-B-S I-N M-E.

3 Q. Okay. So it stands for Jobs in Maine; is that right?

4 A. Yes.

5 Q. Okay. Do you have a copy of that posting?

6 A. I would have a copy at home, yes.

7 Q. Where would that be located? Is it just like a file or

8 something related to your employment through --

9 A. Yes.

10 Q. Returning to your resume, I forgot, did you agree with

11 me that this is indeed the updated resume, Exhibit 1?

12 A. Yes, it is.

13 Q. I notice that you have structured the resume such that

14 it describes your professional experience generally and

15 then lists the different places where you've been

16 employed.

17 First of all, are you okay with that

18 characterization?

19 A. Yes.

20 Q. And that there's a heading called professional

21 experience that starts here on page 2?

22 A. Yes.

23 Q. And I think it goes to page -- yeah, it finishes up on

24 page 3 of the resume, correct?

25 A. Uhm-uhm, yes.

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1 Q. Which, if any of these summaries, describe your job
2 responsibilities and experience at Tyler Technologies?
3 A. May I?
4 Q. Yes. And let me -- let me maybe break it down a little
5 bit.
6 The first heading is called software training.
7 Do you see that?
8 A. Yes.
9 Q. Does that entry describe, or portions of that entry I
10 guess would be a better way to phrase the question, do
11 portions of that entry describe your job
12 responsibilities at Tyler?
13 A. The first bullet would.
14 Q. But only the first bullet?
15 A. Yes.
16 Q. I'm just going to put a little checkmark by that if
17 that's okay with you?
18 A. Fine.
19 Q. What about the second heading which is software and
20 hardware technical support, did I read that right?
21 A. Yes.
22 Q. Do any of those bullets describe your job duties while
23 you were at Tyler Technologies?
24 A. If any, it wasn't intended to, but the provided
25 technical support on part of the software, I did in

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1 some cases provide technical support for.

2 Q. But it wasn't your --

3 A. Primary duty.

4 Q. -- primary duty or your intent when you drafted that

5 portion of your resume to describe your functions at

6 Tyler?

7 A. That's correct.

8 Q. And, I take it -- the last section is called accounting

9 and bookkeeping. Any of those bullets describe your

10 performance or rather your job responsibilities at

11 Tyler?

12 A. They do not.

13 Q. This bullet that you mentioned under software training

14 starts with implemented and provided training and it

15 mentions on-site and online.

16 First of all, I take it, on-site means at the

17 customer location?

18 A. Yes.

19 Q. And online means via the web in sort of a Webinar

20 context?

21 A. Webex, yes.

22 Q. Webex, okay. That's where you're providing remote

23 training?

24 A. Yes.

25 Q. While you were at Tyler was the substance of the

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1 training that you provided on-site compared to through
2 the Webex the same in terms of what you were training
3 on?

4 A. The content would have been the same, yes.

5 Q. Okay. That was my question.

6 What determined whether the training was
7 on-site versus online?

8 A. My supervisor.

9 Q. Your supervisor's direction?

10 A. Made those decisions.

11 Q. The -- again, the first bullet talks about it says
12 implemented and provided training.

13 Is there a distinction in your mind between
14 implemented and training?

15 A. In my mind I think of the implementation as getting
16 them set up, gathering the information from what they
17 want and need, determining what's best with them, how
18 to use the software, and then helping them set it up to
19 accomplish that.

20 Q. So implementation describes functions that we'll go
21 into more in detail but occurred prior to doing user
22 training?

23 A. Yes.

24 Q. When you were hired at Tyler, what type of training did
25 you go through?

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1 A. I had sessions with my supervisor for training and I
2 also shadowed my supervisor and other implementation
3 consultants.

4 Q. Was there a discreet period of time which you were in
5 training?

6 A. I couldn't define that, no.

7 Q. Meaning you can't remember what it was or you're not
8 sure if there necessarily was a specific period of
9 time?

10 A. There was no specific deadline that I can recall. It's
11 been a long time.

12 Q. I understand. How long were you in training
13 approximately if you don't have a precise number?

14 A. I couldn't guess. It seemed like the first at least
15 two or three months it was definitely training, but I
16 also learned a second module, so I started training
17 again. It was all sort of intermingled.

18 Q. When did you learn the second module?

19 A. I have no idea.

20 Q. At some point after the initial two to three months,
21 though?

22 A. Yeah. I don't recall a specific time frame.

23 Q. Okay. So at some point during your employment you
24 learned a second module, and so there was some element
25 of training that occurred during that process?

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1 A. Yes.

2 Q. Did that also involve shadowing?

3 A. Yes.

4 Q. Just so that we're all on the same page, what was the
5 second module that you learned?

6 A. Permits and code enforcement.

7 Q. And what was the initial module that you learned?

8 A. Business license.

9 Q. How did it come about that you learned this second
10 module of permits and code enforcement?

11 A. That was determined by the project managers. I don't
12 know.

13 Q. How were you advised of the need to learn this second
14 module?

15 A. Again, by my supervisor.

16 Q. Which one?

17 A. I don't remember.

18 Q. But one of these project managers that we mentioned?

19 A. It would be Hope or David, but I don't know which one.

20 Q. And during your tenure of your employment, did you
21 conduct implementations both with respect to business
22 licenses and permits and code enforcement?

23 A. Yes, I did.

24 Q. And is it a correct statement to say that those were
25 the only two modules that you had or that you supported

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1 while you were an implementation consultant to Tyler?

2 A. Yes.

3 Q. When you say that you had sessions with your supervisor
4 in connection with your initial training, to what are
5 you referring?

6 A. Webex training sessions, listening in on Webexes.

7 Q. So these would be training sessions that you would be
8 viewing on the web along with other participants?

9 A. At the time I started with another implementation
10 consultant who was also learning business license, so
11 the two of us in the early stages.

12 Q. Who was that?

13 A. Nicole something. I don't remember her last name.

14 Q. Was she at Tyler at the time you left employment there?

15 A. I believe she was but in a different department.

16 Q. What department was she in?

17 A. I believe she had joined conversions but I can't
18 confirm that. I -- that was my last contact with her,
19 that that was where she was.

20 Q. And so you're identifying a department of conversions
21 that is distinct from is it the implementation
22 department that you were in?

23 A. Yes.

24 Q. What does conversion mean in the vernacular at Tyler?

25 A. It was a department who was responsible for taking data

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1 from existing systems from clients and electronically
2 converting it and loading it on the client's software.

3 Q. So then that's not something you did as an
4 implementation consultant?

5 A. In some cases we would assist them in defining where
6 their data went in our system from their old data, but
7 I did not actually do the physical or electronic
8 conversion.

9 Q. Would you -- I'm sorry. You would assist the
10 conversion department at times?

11 A. We would assist the customer in defining where their
12 data went in our system and that would be submitted to
13 the conversion department, and they would do the actual
14 conversion.

15 Q. Okay. So you would meet with the client to explain to
16 the client where the data from their system would go in
17 Tyler's system?

18 MS. HOLMES RAY: Object to the form of the
19 question. You can answer.

20 A. I didn't dictate where it went, I helped them define
21 where they wanted it to go.

22 BY MR. McKEEBY:

23 Q. And you would do that in a meeting with the client?

24 A. Yes, in one of our on-site visits.

25 Q. And how would you communicate where the client directed

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1 the data to go in Tyler's system to the conversion
2 department?
3 A. There's a worksheet to be filled out.
4 Q. And is that a worksheet that you filled out as an
5 implementation consultant?
6 A. With the customer.
7 Q. What does that mean, you filled it out with the
8 customer?
9 A. We discussed with -- their data and where it should go
10 and then we completed the form together.
11 Q. Was this a form that was completed online?
12 A. No, it was a spreadsheet.
13 Q. So was it done manually then?
14 A. It was electronic but it was not --
15 Q. Okay.
16 A. -- on the net. When you say online, I assume it would
17 mean the Internet.
18 Q. Probably is a fair assumption.
19 But you completed it electronically on the
20 system with the customer?
21 A. Yes.
22 Q. And then you took whatever action to submit that to the
23 conversion department?
24 A. Yes.
25 Q. And was that the case throughout your employment with

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1 Q. And when you say that would depend on the site, you
2 mean that would depend on the customer site?
3 A. Yes.
4 Q. Does that go back to the size of implementation?
5 A. Yes.
6 Q. As an implementation consultant, would you meet with
7 the customer to discuss who at the customer needed to
8 be trained and on what and when in terms of setting up
9 the agenda or schedule for the training?
10 A. Yes.
11 Q. And, again, this is a one-on-one meeting between you
12 and either -- this is a meeting between you and either
13 one or more representatives of the customer?
14 A. Yes.
15 Q. Would this agenda be created at the same time as the
16 initial meeting that you discussed in which you would
17 gather information about the customer's processes?
18 A. No.
19 Q. This would be a separate meeting?
20 A. Yes.
21 Q. Is there -- would there be a person at the customer who
22 would be typical for you to meet with in terms of a
23 title like a, I don't know, a planner, or would that
24 just depend on the particular staffing of the customer?
25 A. It would depend on the staffing.

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- 1 Q. Okay. When you were meeting with the customer to set
2 up these agendas and schedule, would you come away with
3 something in writing out of that process?
- 4 A. I tried to.
- 5 Q. What was the ultimate writing that you would try to
6 create as a result of that meeting, the schedule?
- 7 A. Yes.
- 8 Q. And you would provide that schedule to the customer for
9 approval?
- 10 A. The customer would usually take the schedule and be
11 sure that everybody was available when we had
12 determined.
- 13 Q. What would the schedule contain? Would it be just
14 times and the identification of whatever aspect of the
15 module that the training would be on at that time
16 or --
- 17 A. With the person who would be there, yes.
- 18 Q. Any other information?
- 19 A. Not typically.
- 20 Q. Are those schedules one of the types of documents that
21 you retained that you mentioned earlier?
- 22 A. No.
- 23 Q. What would you do with those schedules after they were
24 completed?
- 25 A. I kept them on file just in the claim file.

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1 Q. Would that be part of the trip report or attached to
2 the trip report or anything like that?

3 A. Not usually.

4 Q. Would they be submitted to the project manager for
5 approval?

6 A. Not typically.

7 Q. So if I understood your testimony correctly, you would
8 come up with the schedule with the customer and then
9 the customer would confirm that the people were
10 available at the designated times?

11 A. Yes.

12 Q. Would the schedule actually have employees of the
13 customer on it?

14 A. Typically, yes, and it would be distributed to them.

15 Q. And then obviously you would have a copy so you would
16 know who you were training and when?

17 A. Yes.

18 Q. When you were training employees of the customer about
19 the functionality of the Tyler software, would you have
20 any obligation typically to report back to the customer
21 to advise the customer at a general level how the
22 training was going?

23 A. In very general terms I'm sure I just told them that
24 they went well or --

25 Q. Did you ever have to tell them that they didn't go

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1 Q. How were you advised -- let me ask a different
2 question. So when I've talked about office work
3 throughout the deposition, to distinguish that from
4 time that you spent either traveling or at a customer
5 location --

6 A. Yes.

7 Q. -- correct?

8 So when I've used that term, you have
9 understood it to mean time that you spent at your
10 home -- your home office doing work for Tyler?

11 A. Yes.

12 Q. Do you have an estimate of an average, or I'll start
13 with that, with an average number of hours that you
14 contend that you worked while you were at Tyler,
15 average weekly number of hours that you contend you
16 worked while you were at Tyler?

17 A. It seems like I filled out a document that said
18 something along that line, but I would say I did my
19 travel and my on-site work, and then I would spend two
20 to three hours between the evening and the morning
21 while I was in the hotels.

22 Q. Okay.

23 A. But I don't have an actual number right -- I don't
24 remember it if I did.

25 Q. What is the document that you mentioned that you think

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1 you filled out? Was that something in connection with
2 the lawsuit?

3 A. Yes.

4 Q. Do you -- without telling me the number, do you think
5 you put a number in that document?

6 A. I'm pretty sure there was a question about it, but I'd
7 have to see the document.

8 Q. What type of document are you thinking of, something
9 that your counsel provided to you?

10 A. Yes.

11 MS. HOLMES RAY: I'm going to object. We're
12 not going to go into attorney-client stuff.

13 BY MR. McKEEBY:

14 Q. I'm not asking you to refer back to that document, but
15 just based on what you remember today, can you provide
16 an estimate or a range of the average number of hours
17 that you worked at Tyler when you were employed there
18 as an implementation consultant?

19 A. Per week?

20 Q. Yes. On a weekly basis. I mean are you going to tell
21 the judge in this case that your average was 42 hours,
22 52 hours, some range or something else?

23 A. I would say 50.

24 Q. And I understand that's a range, as my question
25 indicated.

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1 Did that -- well, did the number of hours that
2 you worked on weeks when you were not traveling, were
3 they less than those weeks in which you were traveling?

4 A. Yes, I would try very hard to work 40 hours.

5 Q. Were you as an implementer on the customer's site when
6 they would go live?

7 A. Yes.

8 Q. So that we're on the same page, there have been a few
9 occasions today where we haven't been, but what do you
10 mean when you say go live?

11 A. When they actually start using the software live rather
12 than in a testing or training situation.

13 Q. What were your responsibilities during the go live
14 process?

15 A. To answer questions.

16 Q. Of the end users?

17 A. Yes.

18 Q. How long would that process take in the sense of how
19 long were you on the site while the customer was going
20 live or did that depend and vary?

21 A. That was determined by the project manager.

22 Q. Okay. I'm not asking who determined it, I'm asking how
23 long it was?

24 A. It varied. I don't know.

25 Q. Would it be typical that you would make a trip to a

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1 customer location specifically for the purposes of
2 assisting the client during the go live process?

3 A. Typical, no.

4 Q. What would be typical?

5 A. There were go lives that we were available by Webex or
6 by phone.

7 Q. So in these cases you would be assisting the customer
8 remotely while they were undergoing the go live
9 process?

10 A. Yes.

11 Q. Were there ever occasions where you were at the
12 customer location physically while they went live?

13 A. I want to say yes, but I can't think of a specific
14 example. I don't know.

15 Q. So it would have been more typical for you to have
16 assisted with the go live process either via Webex or
17 by phone?

18 A. Yes. And even that would have been very few that I was
19 actually doing that.

20 Q. Very few means what?

21 A. It wasn't for every implementation. I was not there
22 for go live or working with them for go live.

23 Q. Right.

24 A. In some cases the project manager might do it or for
25 some reason they didn't want us to be there for go

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- 1 A. I believe it's the 30 days after they go live to answer
2 questions for them.
- 3 Q. And am I correct that -- well, let me ask you an
4 open-ended question. Were there days similar to when
5 what we just discussed about go live support where you
6 were assigned to be at your office to assist with post
7 live support?
- 8 A. I would never say that I was assigned to be sitting at
9 my office to do a post live support. We did the
10 support as it came in. There was no formal assignment
11 that, Amy, you're going to answer questions from this
12 customer.
- 13 Q. Right. But there was that with respect to the go live
14 support, you knew you had to be at your office on a
15 particular day?
- 16 A. No. It was that 30-day period they could email or
17 leave a voicemail at any time, not that one day.
- 18 Q. Right. But I'm talking about not post live but go
19 live. I think you told me this, but I want to make
20 sure, is that when you were providing go live support,
21 there were days when your project manager would tell
22 you you need to be at your office to field these
23 questions for this customer while they're going live?
- 24 A. For go live, yes.
- 25 Q. But not the case for post live?

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1 A. That's correct.

2 Q. Okay. Because they could send you an email or call you
3 at any time?

4 A. Any time.

5 Q. Did they have your cellphone, they being the customers,
6 to call you with these types of questions during this
7 period?

8 A. They would call the office voicemail or email.

9 Q. They would call your office voicemail?

10 A. Uhm.

11 Q. Is that yes?

12 A. Yes.

13 Q. And then they would send you emails?

14 A. Yes.

15 Q. Was the 30-day period that you referenced consistent
16 from client to client as to the amount of time you were
17 providing post live support?'

18 A. Yes.

19 Q. Did you understand that to be something that was part
20 of the customer's contract or did you have an
21 understanding?

22 A. I was told that was part of my job.

23 Q. And the post live support, just so that we're clear,
24 that you would provide is that you would answer their
25 questions about the software that would come up on an

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1 as-needed basis after they had actually been converted
2 to handling live data on the system?

3 A. Yes.

4 Q. Did you ever have any occasions where a customer would
5 contact you after the 30-day period and ask you
6 questions?

7 A. I don't know.

8 Q. You don't recall that happening?

9 A. I don't recall.

10 Q. Do you recall any Tyler policy or instruction that you
11 received to indicate to you what you were supposed to
12 do if that did happen?

13 A. I don't recall.

14 Q. I want to engage in an exercise similar that we did
15 before and ask you to provide me with an estimate of a
16 range of the amount of time at Tyler that was devoted
17 to first go live support.

18 A. I would -- 1 to 2 percent.

19 Q. So not much?

20 A. Very little.

21 Q. The same with post live support?

22 A. Yes.

23 Q. 1 to 2 percent, in that range?

24 A. Yes.

25 Q. Did you ever provide training to any of Tyler's

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1 employees?

2 A. Not that I recall.

3 Q. Did any of Tyler's implementers ever shadow you?

4 A. I believe there was an occasion that that happened,

5 yes.

6 Q. Who was the -- was that an implementer that shadowed

7 you?

8 A. Yes.

9 Q. Who was that?

10 A. I think it was Sam Parker.

11 Q. Was that a newly hired implementer?

12 A. Yes.

13 Q. I'm going to ask you a broad question. If we need to

14 break it down, we can. You've given me percentages and

15 estimates and ranges with respect to how big a

16 component, different aspects of your job, were.

17 Do those changes vary or do those percentages

18 vary depending on whether or not you were doing

19 business license support versus permits and code

20 enforcement support, or are they generally the same?

21 A. I would say generally the same.

22 Q. I'm going to hand you a document I'm going to mark as

23 Exhibit 3.

24 (Deposition Exhibit No. 3, Performance

25 Evaluation Form, marked for identification.)

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EXHIBIT 8

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1 that you completed at Tyler?

2 A. Yes.

3 Q. And is it a correct statement to say that the expense
4 reports that you completed throughout your employment
5 were in this format?

6 A. Not throughout my employment.

7 Q. When did it change?

8 A. I don't know the exact timing, but it was the spring of
9 2009.

10 Q. So towards the end of your employment?

11 A. Yes.

12 MS. HOLMES RAY: What's the Bates on that?

13 MR. McKEEBY: Tyler/Beall 081416.

14 BY MR. McKEEBY:

15 Q. And she's asking -- see we put these numbers at the
16 bottom?

17 A. Yes.

18 Q. They show all the documents that have been produced and
19 it lets the lawyers keep track of what's been produced.

20 I understand this is something that was added
21 after the lawsuit was commenced.

22 All right. Let's talk a little bit about --
23 let me go ahead and mark this as Exhibit 2 to your
24 deposition.

25 (Deposition Exhibit No. 2, Tyler Expense

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1 Report, 11/9/08, marked for identification.)

2 BY MR. McKEEBY:

3 Q. These would be reports that you would submit to
4 your -- to the accounting department at Tyler?

5 A. To my supervisor who then I assumed signed it and then
6 it was passed off to the accounting department.

7 Q. Okay. And that's your signature here at the upper
8 left-hand side of the document?

9 A. It is.

10 Q. Would you -- and is this for a week's period of time?

11 A. Yes.

12 Q. And in terms of the -- this summary of activity, do you
13 see that section that I'm pointing to here?

14 A. Yes.

15 Q. At the bottom of the document?

16 A. Yes.

17 Q. That's something -- you completed these -- that
18 portion, correct?

19 A. Yes.

20 Q. One of those columns shows quantity .5 to 1. Does that
21 refer to a billable day?

22 A. Yes, billable time.

23 Q. Billable time. I notice that this one that has a
24 reference to home office is billed in a .72 amount.

25 First of all, am I correct about that?

Freedom Court Reporting, Inc

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1 A. I can barely read it, but it does look like .72, and
2 that was for it says verification and testing.

3 Q. Okay.

4 A. So it was something I did via Webex with the
5 customer --

6 Q. Was that billable time?

7 A. -- prior to an on-site visit. And yes, that was what I
8 was told to put in there by my supervisor.

9 Q. Let me ask you a more general question. You understand
10 that the claim in this lawsuit is that -- part of the
11 claim in the lawsuit is that you worked overtime while
12 you were -- you worked more than 40 hours while you
13 were employed with Tyler?

14 A. Yes.

15 Q. And I don't think we're particularly in disagreement
16 about that.

17 Is the -- is there any way to tell from this
18 expense report how many hours you worked for Tyler
19 during this week which appears to be a week in November
20 of 2008?

21 A. There is not.

22 Q. And is that -- is your answer specific to this form or
23 is it also true to say that as a general matter, you
24 cannot tell your hours worked from the expense reports?

25 A. There are -- there were different times while I was